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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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R 622/40901

EXAMINER

NGUYEN, R

EVENSON, WANDS, EDWARDS,
LENAHAN & MCKEOWN
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WASHINGTON, DC 20005

ART UNIT PAPER NUMBER

3206

DATE MAILED: 12/04/92

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1 - 19 are pending in the application.
Of the above, claims 19 ¹⁵ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1 - 18 are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 19 ¹⁵ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☒ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☒ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-18, drawn to a vacuum process apparatus, classified in Class 269, subclass 21.

II. Claim 19, drawn to a holding arrangement, classified in Class 29, subclass 563.

The inventions are distinct, each from the other because of the following reasons:

The inventions of Group I does not require a holding arrangement as required by Group II; and Group II does not require a transport arm as required by Group I.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Mckeown on November 20, 1992 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-18. Affirmation of this election must be made by applicant in responding to this Office action. Claim 19 withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

2. Applicant is requested to submit copies of references cited

on page 1, which are DE-A-24 54 544 and JP-1-218-627.

3. Claims 1-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following phrases: "said rotational axis", "the normals" in claim 2; "said station communicating" in claim 10 lack proper antecedent basis. The terminologies "or" and "at least" used throughout the claims are vague and indefinite. The meaning of "the normals ... being warped" in claim 2 is unclear; as is "said openings being ... by a geometric plane" in claim 7. The "workpieces" in claim 18 are not part of the apparatus and therefore it is not clear how claim 18 further limits claim 1.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8, 12, 14, 15 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Japan reference (JP).

JP discloses a vacuum process apparatus comprising: stations (A, B) having openings (3', 4'); a transport device (1, 2''') rotatable around an axis; and conveyor means, which consist of a stopper (7), the components surrounding the stopper and a lower surface of the chamber 5, that move up and down by a driving means (8, 8'). Regarding claim 18, its limitation is not deemed to further limit the apparatus of claim 1, and therefore is given no patentable weight.

5. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 5-7 are rejected under 35 U.S.C. § 103 as being unpatentable over Japan reference (JP). JP fails to disclose the pathway of the transport device defining a cone shaped trajectory surface that has an angle less than 90 degree formed with the rotational axis. However, the geometry of the transport arm movement does not show any advantage and therefore it is considered as a matter of design choice.

Claims 10,11,13 are rejected under 35 U.S.C. § 103 as being unpatentable over Japan reference in view of Soviet Union reference (hereinafter JP and SUP, respectively). JP fails to disclose a chamber enclosing the transport arm. SUP discloses a vacuum apparatus comprising a station communicating by an opening with the chamber and transport device residing within the

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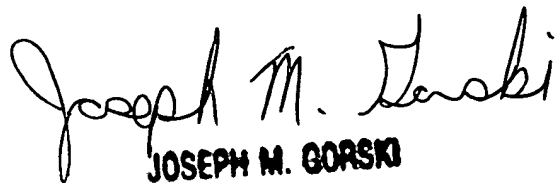
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chamber. Therefore it would have been obvious for one having ordinary skill in the art at the time of Applicant's invention to modify JP in view of SUP by enclosing the entire apparatus in a closed chamber, with each workpiece station having a holding means and configurations as recited in the claims in order to operate more safely.

5. Claims 9,16-17 contain allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication should be directed to K. V. Nguyen at telephone number (703) 308-1769.



JOSEPH M. GORSKI
PATENT EXAMINER
GROUP 320 - ART UNIT 326



Khan V. Nguyen
November 25, 1992